

REMARKS/ARGUMENTS

Claims 84-92 and 94-147 remain pending in this application. Claims 84, 106 and 127 have been amended.

I. Request for Continued Examination

Applicant has attached hereto a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114, with associated fee. Applicant requests that the Examiner withdraw the finality of the current action and consider the merits of the present Amendment and Response.

II. Rejection of Claims 84-147 Based on 35 U.S.C. § 102(e)

The Examiner has rejected claims 84-92 and 94-147 under 35 USC 102(e) as being anticipated by Davis (U.S. 5,568,552). Applicant respectfully disagrees and submits that claims 84-92 and 94-147 are allowable for at least the reasons detailed below.

A. Examiner's "Response to Arguments" Fails to Support Anticipation

The Examiner has stated that Applicant's previous arguments were not persuasive, stating that a method or apparatus for limiting use of software resources by a software program is disclosed by Davis, for example, at col 3, lines 47-60, which state:

The present invention relates to an apparatus and method for enabling a roving software license to be transferred between appropriately configured hardware agents thereby eliminating the need for a distributable physical hardware device. In the following description numerous details are set forth in order to provide a thorough understanding of the present invention. However, it is apparent to one skilled in the art that the present invention may be practiced through many different embodiments that that [sic] illustrated without deviating from the spirit and the scope of the present invention. In other instances, well-known circuits, elements and the like are not set forth in detail in order to avoid unnecessarily obscuring the present invention.

Applicant respectfully submits that col. 3, lines 47-60 of Davis merely disclose a "roving software license" and "hardware agents." Applicant requests further clarification of how a "roving software license" and "hardware agents" teach or disclose, let alone anticipate the claimed invention. Specifically, it is unclear how the "roving software license" and the "hardware agents" read onto an "access authorization indicator", a "software program" and a "software resource".

The additional language in the cited paragraph of Davis (i.e., col. 3, lines 52-60) is merely boilerplate language. This boilerplate language does not specify or suggest any particular structure or method, and therefore cannot support a rejection based on prior art, particularly a rejection based on Rule 102(e) anticipation. Applicant therefore maintains that Davis does not anticipate the claimed invention.

B. Prima Facie Case of Anticipation Not Supported by Clear One-to-One Element Correspondence

Applicant appreciates that the Examiner has cited to specific column and line numbers within the Davis reference. However, Applicant cannot determine any correspondence between the methods or structure disclosed in the cited portions of Davis and the method or structural elements recited in Applicant's claimed invention. To enable the Applicant to properly respond to the Examiner's rejections, Applicant respectfully requests that the Examiner identify the particular method or structural element(s) of Davis, and their one-to-one correspondence with Applicant's claimed elements.

For a prima facie showing of anticipation, such a one-to-one correspondence between the claimed invention and the cited art must exist, and must be presented in support of the rejection. Absent a showing of the necessary one-to-one correspondence, Applicant respectfully requests that the rejection for anticipation under 35 U.S.C. § 102(e) be withdrawn.

C. Davis and the Present Invention Provide Separate Solutions with Separate Benefits

Applicant submits that the present invention and the system of Davis provide separate access control solutions with separate benefits. Davis is concerned with replacing dongles with hardware agents that implement

public/private key encryption to flexibly carry out authentication of certificates and roving licenses for use of software programs on specific computers (e.g., that computer that currently contains the roving license). The present invention teaches an access authorization indicator associating a software program and a software resource (e.g. a software library), wherein the access authorization indicator comprises one or more license terms to allow said software program to use said software resource. One difference between the present invention and the system of Davis can be seen by observing that both the present invention and Davis may be separately implemented within a computer system to achieve separate benefits.

Hypothetically, per the teachings of Davis, if a computer were to include a software program and a software resource, the presence of a roving license could be used to determine whether the software program would execute on that computer or not. Nothing in Davis addresses how the software program would associate with the software resource. The roving license would not enable (nor prevent) the software program to use the software resource. The methods and apparatus of the present invention could be implemented in tandem with the system of Davis to provide the desired access control between the software program and the software resource. Note that the above hypothetical is beyond the scope of Davis, which fails to encompass a software program and a software resource.

For at least the foregoing reasons, Applicant submits that Davis does not teach, anticipate or describe the present invention as claimed in independent claims 84, 106 and 127. Further, Applicant respectfully submits that claims 85-92, 94-105, 107-126, and 128-147, being dependent upon respective allowable base claims, are also allowable for at least the foregoing reasons stated above.

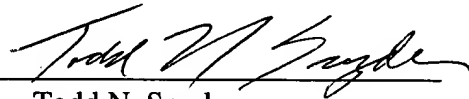
Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

THE HECKER LAW GROUP

Date: July 13, 2004

By:



Todd N. Snyder  
Reg. No. 41,320

THE HECKER LAW GROUP  
1925 Century Park East  
Suite 2300  
Los Angeles, California 90067  
(310) 286-0377

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Signature: Moneeta Kiran

July 13, 2004  
Date